

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

JOINT APPROPRIATIONS SUBCOMMITTEE ON LONG RANGE PLANNING

Call to Order: By **CHAIRMAN DAVE KASTEN**, on January 22, 2003 at 8:30 A.M., in Room 350 Capitol.

ROLL CALL

Members Present:

Rep. Dave Kasten, Chairman (R)
Sen. Tom Zook, Vice Chairman (R)
Rep. Christine Kaufmann (D)
Sen. Jon Tester (D)
Sen. Joseph (Joe) Tropila (D)
Rep. John Witt (R)

Members Excused: Sen. Bob Keenan (R)

Members Absent: None.

Staff Present: Catherine Duncan, Legislative Branch
Jane Hamman, OBPP
CJ Johnson, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 6 & 8 RENEWABLE RESOURCE GRANTS
AND LOAN APPLICATIONS (RRGL)

Executive Action: None

CHAIRMAN KASTEN opened the Committee hearing on HB 6 & 8. He informed the Committee that there are people in the audience from eastern Montana that wanted to speak on HB 11, TSEP-Program.

Erin Lutts, representing Roosevelt County, Mid-Rivers

Communication Telephone Cooperative. Ms. Lutts said that the projects heard in HB 11 are very important to her area in eastern Montana. Some of the communities she mentioned are Ryegate, Jordan, Ekalaka, and stated that these communities have a population of 200 or less, and they have been declining the last couple years. When these people leave the communities there is no basic support for water and wastewater services, and she said this is the reason they need the funds for the projects listed in HB 11. She said they cannot do economic development when there isn't any water or wastewater services. She asked the Committee to support HB 11 in its entirety, and make sure that the small eastern Montana projects are included in their executive action. These funds will help the communities restore their services. She said that a lot of the communities already have matching funds in place and are secured and ready to start their projects.

Jerry Henderson, General Manager of Mid-Rivers Communication

Telephone Cooperative. Mr. Henderson reiterated Ms. Lutts' testimony, and asked the Committee to please provide the funds for the projects listed for eastern Montana.

HEARING ON HB 6 & 8

**Mill Creek Irrigation-Mill Lake Dam Rehabilitation,
RRGL-Project #17 Page 61**

CHAIRMAN KASTEN opened the hearing on the Mill Creek Irrigation-Mill Lake Dam Rehabilitation, RRGL-Project #17 Page 61.

Pam Smith, RRGL-DNRC, recommended the full funding of \$100,000 for the project, and the RRGL loan funding in the amount of \$472,000, not to exceed the 4.5 percent interest rate on a 20-year term.

Proponents:

Evon Stephani, Commissioner of the Mill Creek Irrigation

District, said he is one of three Commissioners in the District, and introduced Tom Parker, Commissioner, and David Jones, Consulting Engineer on the project. He said they are here to answer any questions the Committee may have. **Mr. Stephani** informed the Committee that the dam is 12 miles back in the wilderness, and is accessible only by pack horse or helicopter.

The dam holds 780 acre-feet of water, and is 95-years old. He discussed the emergencies they have had on this project, and the cost to repair them. The dam is used for late season irrigation only from mid-July to the first of August. He said that the dam is located on the headwaters of Mill Creek, and also provides water for fisheries and recreational use.

EXHIBIT(jlh13a01)

Tom Parker, Commissioner, said he has 50 acres of cherry trees, and he depends on the water from Mill Creek to irrigate his orchard. He urged the Committee to support this project.

David Jones, District Engineer, said this is a unique project because of the dam's location. He said that it takes more time and money than other projects in the valley. A lot of the work is done by hand because they are not able to get equipment back to the dam. He urged the Committee to fund this project.

Opponents: None

Questions from Committee Members and Responses: None

CHAIRMAN KASTEN closed the hearing on the Mill Creek Irrigation.

{Tape: 1; Side: A; Approx. Time Counter: 00 - 12}

**Pablo-Lake County Water and Sewer District-Water
Distribution System, RRGL-Project #47 Page 136**

CHAIRMAN KASTEN opened the hearing on the Pablo-Lake County Water and Sewer District-Water Distribution System, RRGL-Project #47 Page 136.

Pam Smith, RRGL-DNRC, said that this project will replace the transmission line that will provide water to the Community from the well. The Community has experienced major leaks resulting in the loss of water. **Ms. Smith** said they recommend full funding of \$100,000 for this project.

Proponents: None

Opponents: None

Questions from Committee Members and Responses: None

CHAIRMAN KASTEN closed the hearing on Pablo-Lake County.

{Tape: 1; Side: A; Approx. Time Counter: 12 - 14}

**Cartersville Irrigation District-Sand Creek
Siphon Repair, RRGL-Page 200**

CHAIRMAN KASTEN opened the hearing on Cartersville Irrigation District-Sand Creek Siphon Repair, RRGL-Page 200.

Pam Smith, RRGL-DNRC, said they recommend no funding on the project at this time. She said that they recommend the District further investigate alternatives for the siphon project, including cost estimates and the long-term cost of operational maintenance. This includes a technical feasibility report that follows the guidelines contained in the grant application for this program, and to reapply for future funding is recommended at this time.

Proponents:

Jack Ferguson, Commissioner of Cartersville Water District, stated that this project is a necessity because the siphon is rusted out and deteriorating, and stated it could go at any time. The people in the area are dependent on this water, and it is a hardship when they are losing the water through the rusted out areas of the pipe. He said that some of the farmers cannot afford to help pay for the cost of this project, because it would probably break them financially. He asked that the Committee consider and support this project.

Opponents: None

Questions from Committee Members and Responses:

CHAIRMAN KASTEN asked Mr. Ferguson what they pay per acre-foot for their water. **Mr. Ferguson** said that it is \$8.50 per acre, and they will raise the cost to help cover the project.

Jane Hamman asked if the \$10,000 is from the special assessment by raising the fee \$1 per acre-foot. **Mr. Ferguson** said that is correct, it is figured on 10,000 acres of land.

CHAIRMAN KASTEN asked Mr. Ferguson, "If the Committee can find \$50,000, can they raise the funds to match it?" **Mr. Ferguson** responded that they could by raising their fee by \$3 more per acre-foot of water.

Jane Hamman asked if the \$20,000 in-kind, is from labor and equipment, or is it cash. **Mr. Ferguson** replied that "this money is in a reserve account in the bank."

{Tape: 1; Side: A; Approx. Time Counter: 16 - 23}

REP. WITT asked Bob Fischer, DNRC, if this is Cartersville's first application. **Mr. Fischer** said that they did receive an emergency grant a couple of years back to work on their diversion project, but this is the first application for this project.

REP. WITT stated that in reading this application, he thought they should have ranked higher than they did. **Mr. Fischer** said that the information they submitted was not sufficient enough to determine what they were proposing to do. He said it would have ranked higher if they had done a better job in their presentation and stated the scope of the project, and focused more on the alternatives and what that cost would be. He said that they failed on the technical feasibility of the project.

REP. WITT discussed the Cartersville dilemma, stating that the Committee should take into consideration the process of productivity and the cost per acre for irrigation. He said that soils in some areas do not allow the producers to generate the revenue that is produced in other areas. He stated that the cost per acre-foot can be a large amount of money in those bad soil areas compared to other areas that can afford \$13 or \$15 per acre-foot.

SEN. ZOOK asked Mr. Fischer who is responsible for the presentation of the grant application. **Mr. Fischer** said that the district is responsible. He said that the application for the project was put together without an engineer, and they overlooked the deficiencies and alternatives. He informed the Committee that Cartersville did receive a grant from DNRC several years back, and they had hired a consultant to overlook the deficiencies and alternatives' technical feasibility report. He said it is up to the engineer to pull all this information together and put it in the form of an application, and submit it to the department for review. **Mr. Fischer** felt that this application failed because they didn't have a lot of time to put it together.

{Tape: 1; Side: A; Approx. Time Counter: 23 - 25.2}

CHAIRMAN KASTEN closed the hearing on Cartersville Irrigation District.

**West Crane Irrigation District-Feasibility Study of
Storage Alternatives, RRGL-Page 99**

CHAIRMAN KASTEN opened the hearing on the West Crane Irrigation District-Feasibility Study of Storage Alternatives, RRGL-Page 99.

Bob Fischer, RRGL-DNRC, said it is their recommendation not to fund this project. This application is for the continuation of a PER associated with the proposal for the West Crane storage alternatives. The application failed to address the potential and negative environmental impacts associated with the storage alternatives that had been chosen for study. The technical portion was also inadequate for their review purposes. This project will not be funded because of the technical and environmental deficiencies, and the inadequate information presented in the application.

{Tape: 1; Side: A; Approx. Time Counter: 23 - 26}

Proponents:

Gary Amastoy, representing West Crane Irrigation District, said he is before the Committee for informational purposes and answer any questions that the Committee members may have. He updated the Committee on the project, and stated that they are not here to ask for money. He discussed the RRGL grant they received in 1999 to apply toward one of the phases of the project. He said they are currently putting in place a PER based on specific issues for the irrigation district. They have received an Agriculture grant, and an Irrigation and Development grants program through DNRC to assist in this project. The grants have been beneficial to the landowners in the development of this project. He thanked the Committee for their support, and said that they will be back in two years with a better proposal.

{Tape: 1; Side: B}

Opponents: None

Questions from Committee Members and Responses:

SEN. TROPILA asked Gary Amastoy what the dollar amount was on the grant that they received during the 1999 Legislative Session.

Mr. Amastoy said that the first grant was for \$100,000, and they are finishing that part of the project now.

CHAIRMAN KASTEN closed the hearing on the West Crane Irrigation District.

**Lewis and Clark County WQPD-Groundwater Sustainability in
the North Hills of Helena, RRGL-Project #32 Page 99**

CHAIRMAN KASTEN opened the hearing on Lewis and Clark County WQPD-Groundwater Sustainability in the North Hills of Helena, RRGL-Project #32 Page 99.

Bob Fischer, RRGL-DNRC, recommended the full grant of \$100,000. He said that this project is a proposal to conduct a groundwater investigation on a 54-square mile area in the North Hills of the Helena Valley.

Proponents:

CHAIRMAN KASTEN submitted letters from residents of the Helena North Valley in support of this project.

EXHIBIT(jlh13a02)

EXHIBIT(jlh13a03)

Gary Peterson, resident of Helena, stated that the most critical aspect of planning for this project is the availability of water and its quality. He said that the North Hills aquifer is not understood, and the area is one of the fastest growing areas in Lewis and Clark County. He said that before there can be any future growth in this area, they will need to determine what they have for water usage. He urged the Committee to support this study.

Kathy Moore, Lewis and Clark County Water Quality Protection District, said that members of the Montana Bureau of Mines and Geology, Tom Patten, Marv Miller, and James Madison, and the residents of the North Hills, are here today to support this request. She distributed a letter from Linda Moots in support of this project.

EXHIBIT(jlh13a04)

{Tape: 1; Side: B; Approx. Time Counter: 6 - 8}

Vivian Drake, Director of Planned Helena, said that Planned Helena is a non-profit organization devoted to planning development in the Helena area. **Ms. Drake** distributed a handout from the Montana Bureau of Mines on the study of their goals, background of the project, and facts of the North Hills. She asked the Committee to support this project.

EXHIBIT(jlh13a05)

Tonya Pearson, Helena resident, stated her support for this project.

Sarah Carlson, Montana Association of Conservation District, Helena resident, stated her support for this project.

Mary Clark, Helena resident, stated her support for this project.

REP. CHRISTINE KAUFMANN wanted to be on record in support of this project.

Herman Woehl, Helena resident, stated his support for this project.

Opponents: None

{Tape: 1; Side: B; Approx. Time Counter: 8 - 16}

SEN. TESTER wanted to know how deep the aquifer is in the North Hills. **Kathy Moore** replied that some are 40 feet to 50 feet deep, while others are 500 feet deep. She said that they think there is a series of aquifers, but they are not sure at this time, and that is the reason they need this study done.

REP. WITT asked Vivian Drake as a board member if can she can place a moratorium on this area to stop the growth until they can determine the aquifer issue. **Ms. Drake** replied that the Homeowners' Association applied for temporary control of the ground water area with the request that no more wells be permitted in this 54-square mile area. This would allow them time to address the issue. She said that they did receive a designation for temporary control ground water area, and the people thought that a moratorium did exist at that point, but said that it doesn't.

{Tape: 1; Side: B; Approx. Time Counter: 16 - 26}

Jane Hamman asked Kathy Moore where the \$41,163 came from. **Ms. Moore** said that it is in-kind matching funds, such as cost associated with purchase of equipment, rent of equipment, and etc. **Ms. Hamman** asked if the \$7,760 is also in-kind. **Ms. Moore** said that it is contributions from volunteer citizens.

{Tape: 2; Side: A}

CHAIRMAN KASTEN asked about a previous study that had been done in this area. **Ms. Moore** said there was an extensive review done by DNRC on the control ground water in the North Hills in October

of 2002, due to concern with the lack of ground water, problem with wells, and bad water quality. She said that DNRC issued an order designated as a controlled groundwater area. **Ms. Moore** discussed the map on the back of Exhibit #4 that shows in detail the 54-square mile area that is under this order. She said that all wells to be drilled in this area have to be approved and permitted by DNRC. She said that this also includes domestic wells, which isn't normally the case. There are 4,200 residents that live in this area.

REP. WITT asked if this is a subdivision. **Ms. Moore** replied that it is not. She said there are many subdivisions going in around this area, but at this time there are no plans to provide any type of services or any construction to the area as a whole.

REP. WITT asked if Lewis and Clark County had a management plan.

Ms. Moore said that they do not.

CHAIRMAN KASTEN closed the hearing on the Lewis and Clark North Hills project.

Town of Charlo Project

CHAIRMAN KASTEN opened the hearing on the Town of Charlo Project.

John Tubbs, RRGL-DNRC, said that he asked for this hearing on Charlo due to its unique situation, and wanted the Community to come to this Committee to ask for the maximum flexibility use of their grant funds. He said that Charlo was awarded two grants in the last legislative session, one for a wastewater system, and the grant he will be discussing now for a redundant (backup) well for drinking water. A \$100,000 grant was authorized by the 2001 Legislature. The grant agreement was executed in July 2001, and \$6,513 in grant funds have been disbursed at this time. The funds were for a new well to provide adequate water for the water users under all conditions. The Charlo Water District has been unable to proceed with this project because they cannot obtain a water right for the new well. Water rights are not being issued by the DNRC on the Flathead Reservation because of a water right jurisdiction dispute between the DNRC and the Confederated Salish and Kootenai Tribes.

Mr. Tubbs said that DEQ regulations require separate water systems, but DNRC is not able to give Charlo a permit for this backup system. The Salish Kootenai Tribes have sued DNRC, and have stopped them from changing the point of diversion for the well, or any other changes to any existing water wells. He said that Charlo is trying to find a way to connect to an existing well without having to go through DNRC. He said that his

Director might be held in contempt by the Montana Supreme Court over this issue because he signed the agreement that allowed them to drill the well. **Mr. Tubbs** said that Polson is not allowed to drill wells, and all subdivisions have been stopped. He said until there is an interim solution or settlement with the Salish Kootenai water rights, there will not be any water development on the Flathead Reservation.

SEN. TROPILA asked if the Tribes are trying to run the Town of Charlo off. **Jan Niemeyer, Charlo Water and Sewer System Manager**, said no, that isn't the issue. He said it is over tribal controlled water. **Mr. Tubbs** said that they are in negotiations with the Tribes, and said that every reservation has reserved water rights. The water rights for the Tribes are unquantified, and this one has been unquantified for over 100 years.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 11.7}

Mr. Tubbs said that they have been allowed to develop water on this reservation throughout the entire period. The Tribe, pressured by rogues, have taken the position that they own all the water, not just on the reservation, but in western Montana. The State of Montana has been told that they have no right to issue any water rights within the Tribe's jurisdiction. The Supreme Court has said that until DNRC can figure out how much water the Tribes have, there will not be any permits issued nor change any water rights until they resolve this issue. **Mr. Tubbs** said that whatever happens, this issue could have ramifications throughout the state. He said if they accept the Tribal position that they own all the water, it will not be a good position to start negotiations on. He said that the DNRC Reserved Water Rights Compact Commission that does the negotiations for these types of situations, and the Water Rights Division that is the permitting part of the agency, are the ones being sued. The result of the whole issue is that the community of Charlo is caught in the middle. The Rural Development Agency (RDA) didn't have any problem drilling a well without water rights. RDA previously indicated that they may give Charlo a loan, but at this time they have backed off on this decision. **Mr. Tubbs** said that his agency wrote to the RDA and asked them how did they drill a well without a permit. He said that their only response from RDA is that they had received the letter, but no comment or explanation how they were able to drill without a permit.

SEN. TROPILA asked **Mr. Tubbs** if DNRC could pay the Tribes to drill the well. **Mr. Tubbs** said he wants the Committee to direct him, and tell him what DNRC should do to assist Charlo.

{Tape: 2; Side: A; Approx. Time Counter: 11.7 - 15.5}

Mr. Tubbs said that Charlo could get a loan and go into debt, than maybe DNRC could reimburse them. **Bob Fischer** responded, stating that Charlo is out of regulation, and DEQ goes by federal regulations.

The Committee Members discussed ways to get around the water rights issue. **Mr. Tubbs** responded and identified different issues. He said that there are 210,000 water claims in existing water rights that need to be protected, and 30,000 permits that have already been issued that need to be protected.

{Tape: 2; Side: A; Approx. Time Counter: 15.5 - 22}

Jane Hamman asked if anyone had any suggestions as to what the State could do regarding some kind of Tribal water rights waiver for this system. She asked, "If this bill passes, will it have any impact on the Tribes, or is Federal authority binding and the State cannot do anything?" **Mr. Tubbs** responded that the department is cautiously considering options under current legislation that may allow Charlo to drill the well without DNRC approval. He said this is a very volatile position to be in with the Tribes, and he isn't sure the department could move forward on it. He said that the department has to solve the water rights issue with the Tribes. If they go to litigation, the State of Montana will suffer multiple costs higher than the negotiation process.

{Tape: 2; Side: A; Approx. Time Counter: 22 - 31}

{Tape: 2; Side: B}

CHAIRMAN KASTEN asked Mr. Tubbs if he comes up with any solutions or answers, to please advise the Committee.

SEN. TROPILA asked about the revokable clause. **Mr. Tubbs** said it wouldn't work; it would have to be approved by the Tribes. He said that it won't be Charlo revoking the project, but either the department or the Tribes walking away from the table.

CHAIRMAN KASTEN closed the hearing on Charlo.

Jan Niemeyer handed letters to the secretary from the residents of Charlo.

EXHIBIT (j1h13a06)

COMMITTEE BUSINESS

CHAIRMAN KASTEN said that Todd Everts, Legislative Legal Analyst, is here to discuss amendments. **Mr. Everts** said that he also provides part-time legal support for the Senate Finance Committee and the House Appropriations Committee. He informed the Committee that some of the services he provides are legal opinions, and drafts related amendments for HB 2. He said there are a number of conceptual amendments that take place in this subcommittee. He asked the Committee that if there are any significant amendments that structurally change the legislation, to provide those to him before there is any executive action for him to draft and check for legal analysis, then send to the editing staff for bill standards. He doesn't have a problem if numbers are stricken, or projects are placed in front of other projects; those are simple amendments.

CHAIRMAN KASTEN commented that there will be some TSEP legislation that will be on a separate bill. He stated that there is a loan provision in this legislation that will be for housekeeping purposes for the Department of Commerce, and the \$54,000 can be taken off.

Mr. Tubbs said they have a base budget of \$25,000, and another \$25,400 for a total of \$54,000 that gives the department the ability to assist in projects such as regional water projects.

Mr. Tubbs informed the Committee that if they strike the \$54,000, it will result in the loss of an FTE. He said that the budget in his department now has resulted in the loss of two FTEs. He urged the Committee not to strike this funding. **Mr. Tubbs** said if he is not to be involved in TSEP, than his department should receive the funds for the regional water projects. This money is strictly for base expenditures, and the Conservation and Resource Development, which is a very small part of TSEP.

CHAIRMAN KASTEN asked Jim Edgcomb to respond about taking the loan part out of TSEP, and cleanup of TSEP statute. **Mr. Edgcomb** said the part that would be taken out are the loans for construction projects, and there have been several, because the applicants were able to receive funds from other loan programs that are more competitive, such as the State Revolving Loan Fund. He said that they have never utilized their debt service subsidies. The department hired a consultant that did some research on this, and the conclusion was that it wasn't a good mechanism to disburse the funds, and no one has ever applied for these funds. He said the other issue is the deferred loan for PER grants that have not been utilized. He said that most requests go through the Intercap program. The department now provides grants for PER that have been very helpful to the

Communities. The three loans have been centralized, and this replaces the need for the people to go anywhere else. He said these three items can be taken out of statute, and it would leave them with local applicant grants. **CHAIRMAN KASTEN** asked if this legislation went through, would it eliminate the appropriation for that position. **Mr. Edgcomb** said no, they are two separate issues. He said that the \$54,000 is appropriated through HB 2, and has always been in the base budget.

Cathy Duncan, LFA, distributed several handouts, which she reviewed and discussed with the Committee regarding the RRGL program loans for the 2005 biennium. She said that these projects have already been before the Committee and have been reviewed.

EXHIBIT(jlh13a07)

EXHIBIT(jlh13a08)

{Tape: 2; Side: B; Approx. Time Counter: 5 - 15.1}

CHAIRMAN KASTEN said that the handout (Exhibit 7) is for purposes of executive action that will be taken tomorrow, January 23. The handout provides the dollar amounts that are available, and will assist the Committee in determining if adjustments need to be made, such as taking some money from one project to help fund another project due to the limited dollars available for this session.

John Tubbs reviewed the ranking process of the projects that have been discussed during the week, and the Governor's recommended budget. He said that the Committee has been through an extensive process where the department contacted applicants and witnesses that came before the Committee to testify. He said the department tried to provide as much objectivity and strong recommendation from the Governor's office, for the Committee to base their decisions on for projects that should be funded. He asked the Committee that they be cautious when moving projects around while doing executive action.

{Tape: 2; Side: B; Approx. Time Counter: 15.1 - 20}

John Tubbs stated for the record that if the department has to start cutting projects, that the State Agencies should be looked at first. He fully supports local governments, and said that some of these projects should come first, such as projects #38 and #39 on Exhibit 7.

CHAIRMAN KASTEN commented that he has reviewed the State projects #38 and #39, which are study projects, and stated that the

Committee may take 25 percent from each of these to add to other projects.

SEN. TESTER asked if projects #38 and #39 are still in the funding line. **Mr. Tubbs** said that project #39 is short \$8,000. He said there is \$3.775 million that is recommended for the grants listed on Table 2. He said that HB 6 has \$125,000 for emergency grants, and \$100,000 for (RRGL-Cathy!!! Help?? I don't think this is what he said..and I can't hear on the tapes) grants.

{Tape: 2; Side: B; Approx. Time Counter: 20 - 24}

John Tubbs reviewed the shaded projects on Exhibit 7. The Fort Shaw Irrigation District, Project #40, have a lot of issues, and felt that it could be dropped at this time.

John Tubbs said that the State engineer at NRCS (Natural Resources Conservation Service, U.S. Department of Agriculture) said there isn't any way he would approve the Hill County Project #42. The engineer said that his agency will be held liable due to the current proposal that he feels will cause damage to the structure. **Mr. Tubbs** discussed the funds in the Farm Bill that could probably support this project, but he said there is also a safety issue. He said that this project can also be eliminated from the list. They can come back to the next legislature with less debt, and a solution to their problem.

{Tape: 2; Side: B; Approx. Time Counter: 24 - 28.9}

{Tape: 3; Side: A}

Mr. Tubbs stated that unless Butte-Silver Bow RRGL-Project #41 is funded by TSEP funds, that the project will not be funded.

CHAIRMAN KASTEN stated that this project can be taken off of the list.

Mr. Tubbs discussed the Milstone Project #43, and said that he agrees that the installation of water meters is a necessary step that would add some water savings. Mr. Fischer and Mr. Edgcomb also discussed the project.

{Tape: 3; Side: A; Approx. Time Counter: 0 - 5}

Mr. Tubbs said that the Vandalia, Project #44, has not expended a grant that was received in 1999. He said that no dollars have been spent from a grant awarded them in 2001. If Vandalia is dropped from the request this session, it will set them back only one construction season. He said this request is for a third grant for this same project.

Mr. Tubbs discussed the Richland County Project #45. He said that there isn't any funding for irrigation development.

CHAIRMAN KASTEN commented that he would help Mr. Tubbs if any funds are found to assist with this project because the Community and the people have contributed \$12,000 toward the start of the project.

Mr. Tubbs discussed Gardiner Park Project #50. He said this project didn't rank high enough on the list to be funded, and it didn't affect the water quality. He said it is a high health needs project, which his program doesn't address.

{Tape: 3; Side: A; Approx. Time Counter: 5 - 8}

Bob Fischer responded to the Gardiner project, stating that Pat Murtagh, Engineer for the project, had contacted him and stated that if Gardiner could receive the TSEP funds for the arsenic removal portion and the design of the transmission mains, they would be back next session with an application for RRGL construction money. **Mr. Edgcomb** said if Gardiner doesn't receive TSEP funds, their water rates will be raised about \$6.

{Tape: 3; Side: A; Approx. Time Counter: 8 - 8.5}

**PROJECTS THAT ARE BELOW THE FUNDING LINE AND ARE
NOT RECOMMENDED FOR FUNDING**

Mr. Tubbs discussed the Hysham project. He said that a PER has not been done to determine what Hysham needs to do. The engineering design was not attached to the application, and cannot be funded without this technical work. **Mr. Tubbs** said that if the water-gate does go, that they could probably use emergency funds to repair it.

Mr. Tubbs talked about the mobile home court in Richland County. He said that if the Committee does decide to give Richland County some funds, that he recommends \$30,000 maximum. He said there is history of the water systems not receiving any maintenance and not being cooperative. He said that Richland County is looking at \$750 per trailer to install the reverse osmosis water treatment system.

{Tape: 3; Side: A; Approx. Time Counter: 8.5 - 12.5}

NON-CONSTRUCTION PROJECTS

John Tubbs discussed the non-construction projects. **SEN. ZOOK** asked Mr. Tubbs to look at the TSEP manual on page 209, it states that feasibility studies, research and public information projects will not be recommended for funding. **Mr. Tubbs** informed the Committee that those projects are referring to the private grants. He said it is spelled out in statute that the "program shall recommend feasibility studies for the public funds." **Mr. Tubbs** stated that Chapter four is the Resource Renewable grants and private monies section. He said it is spelled out in statute that "the department is to recommend feasibility and ground water studies."

Mr. Tubbs reviewed the non-construction projects listed on Exhibit 7. The projects are: #2, 5, 10, 18, 20, 21, 26, 32, 37, and 54. He said that these projects are Renewable Resource projects.

{Tape: 3; Side: A; Approx. Time Counter: 12 - 21.5}

Mr. Tubbs reviewed the grants on Exhibit 8. He said that these grants have been recalled because they have not been utilized or expended their funds. **Mr. Tubbs** said that the monies from these grants have been recalled, and can be used toward other projects.

{Tape: 3; Side: A; Approx. Time Counter: 19.6 - 28}

{Tape: 3; Side: B}

Bob Fischer discussed the Rae WSD(wastewater)-RRGL Project #40. He said that this project has been started, and asked that the Committee not to pull the funds on this project. He said that the TSEP and CDBG funds have been disbursed for the project. The project was delayed because they had to hold two bond elections due to the estimates (PER) for the project came back so high.

CHAIRMAN KASTEN said that some of projects the Committee can look for funding on are: Cutbank, Hysham, Cartersville, and the two Richland projects on irrigation and reverse osmosis. **Mr. Tubbs** commented that the projects that CHAIRMAN KASTEN mentioned are in need of better engineering design. He said they can come back to the Committee with a new application at the next session.

Mr. Tubbs informed the Committee that Cutbank was denied the RUS (Rural Utility Services), because these funds are not to be used for reservoirs. **Mr. Tubbs** said that his program is disbursing a Planning Grant to Cutbank so they can determine what their regional water system project will cost. **Jim Edgcomb** commented

that it is his understanding that if Cutbank can come to an agreement with RUS, that RUS is committed to assisting them in funding this project.

Cathy Duncan distributed a handout. She reviewed the Fund Balance Projection-Present Law for the 2005 Biennium, and the Governor's Office recommendations.

EXHIBIT(jlh13a09)

Jim Edgcomb reviewed the project list on Table 2 (Exhibit 9), and how the department scores the grants, and if the projects should receive or not receive TSEP funds. He discussed TSEP projects #29-Ryegate, and #32-Wisdom. He gave reasons why they scored low, their direct influence on ground surface water, and their target rating levels.

{Tape: 3; Side: B; Approx. Time Counter: 0 - 13}

Mr. Edgcomb reviewed Butte-Silver Bow TSEP-Project #48. He said that they scored low in the PER because the project is considered a high-hazard dam due to the population that it would affect if the dam would break. He said there is a health and safety factor that could be an issue in the future.

Bob Fischer discussed the PER for Butte-Silver Bow, and its effect on Butte's water system.

{Tape: 3; Side: B; Approx. Time Counter: 13 - 18}

Jim Edgcomb reviewed Helena TSEP-Project #51, and the PER, stating that it is one of the projects that was bumped out of their funding when this Committee replaced it with the Yellowstone County project. He said the Helena project didn't change their application much from the last time they applied, plus they have also raised new issues that have created problems.

Jim Edgcomb reviewed Homestead Acres District TSEP-Project #52. He said that the engineer did not perform for them and didn't give Homestead the finished product until the day before the PER was due. It is insufficient and inadequate, with the same problems that DNRC had with it. He said by looking at the health and safety issues, it doesn't look like a serious problem at this time.

SEN. TROPILA added that Homestead Acres will be back for funding on this project at the next session.

Mr. Edgcomb distributed a handout that lists the health and safety needs, as well as the financial needs of projects that are ready to proceed.

EXHIBIT (j1h13a10)

Jim Edgcomb reviewed the projects that the Committee will be able to recapture funds from. The projects are from past grant awards that have not been used or they didn't expend all of the funds. Some of the projects he discussed are:

1) The Richland County bridge project awarded in 1999. There is \$23,000 remaining after completion of the project.

2) The City of Boulder was awarded a \$500,000 grant in 1999. Part of the project has been completed, but the corrosion control part of project is not done. **Mr. Edgcomb** said the monies have been held back from this project until the City could prove to DEQ that they had resolved the problem, than they would be allowed to use those monies to pay for other parts of the project. He said there is \$180,000 that can be recovered from this project. **Bob Fischer** informed the Committee that the City is out of compliance due to the copper used on the project. **Mr. Fischer** said he hasn't heard from DEQ if the City has come into compliance or not.

3) Hill County project was awarded \$500,000 in the 1995 Session. He said this is the oldest project that the department has on their list that hasn't moved forward. He said that the funds have been held for a number of years to determine if the regional water project would be going through. He said if this happens, their problems will be solved. Hill County was ordered to build a water treatment plant to treat the water coming out of Fresno Reservoir. This water system has been authorized by the federal government to be funded, but he said it will be a number of years before this happens. **Mr. Edgcomb** stated that the \$500,000 should be recaptured, then if everything is approved, Hill County can reapply to the program. He said they shouldn't have any problem being reapproved because they did rank high for the project.

4) The Town of Ekalaka received a grant for \$87,200. The Town requested a change in projects, but he informed them that they have to come back before the Committee for approval. He suggested that Ekalaka submit a new application. Since their last grant, DEQ has required Ekalaka to install a new disinfection system to their water system. He informed the Committee that they can recapture these funds, and Ekalaka can reapply when they are ready to start their project.

5) The City of Conrad received an emergency grant for \$100,000. They have not used those monies at this time. **Mr. Edgcomb** said that the project is the same one that is before the Committee now. He has spoken to those in charge, and they have agreed to give the \$100,000 back in exchange for the recommended TSEP grant for \$500,000 that is before the Committee today.

{Tape: 3; Side: B; Approx. Time Counter: 18 - 29}

{Tape: 4; Side: A}

6) The City of Helena was awarded a \$500,000 grant in 1997. The project is completed, and he has informed the City that the project is required to be closed out in 90-days, a deadline of March 31, 2003. **Mr. Edgcomb** said there is \$25,000 that can be recaptured from this project.

CHAIRMAN KASTEN thanked Jim Edgcomb-TSEP, and John Tubbs-RRGL, for a good overview of their projects. He informed the Committee that executive action will be taken tomorrow, January 23, on HB 6, 7, 8 and 11.

CHAIRMAN KASTEN closed the hearing and adjourned the Committee.

ADJOURNMENT

Adjournment: 11:55 A.M.

REP. DAVE KASTEN, Chairman

CJ JOHNSON, Secretary

DK/CJ

EXHIBIT (j1h13aad)